

ENTERED

April 29, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAVARROW YOUNG,	§	
SPN #2426649,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-16-1150
	§	
HARRIS COUNTY JAIL	§	
CLASSIFICATION, et al.,	§	
	§	
Defendants.	§	

MEMORANDUM OPINION AND ORDER

Plaintiff, Javarrow Young (SPN #2426649), is an inmate in custody of the Harris County Jail. Young has filed a Complaint Under 42 U.S.C. § 1983, Civil Rights Act ("Complaint"), alleging that the defendants failed to protect him from assault by other inmates on March 23, 2016 (Docket Entry No. 1, p. 4). He has also filed an Application to Proceed In Forma Pauperis (Docket Entry No. 2). After reviewing all of the pleadings as required by 28 U.S.C. § 1915A, the court concludes that this case should be dismissed for reasons explained briefly below.

I. Discussion

Under the "three-strikes" rule found in 28 U.S.C. § 1915(g), a prisoner is not allowed to bring a civil action in forma pauperis in federal court if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for

failure to state a claim upon which relief may be granted unless he is in "imminent danger of serious physical injury." 28 U.S.C. § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 385 (5th Cir. 1996).

A national case index reflects that at least three prisoner civil actions filed by Young have been dismissed by federal courts for failure to state a claim upon which relief may be granted. See Young v. Anderson, Civil No. H-15-1052 (S.D. Tex. May 8, 2015); Young v. Anderson, et al., Civil No. H-15-877 (S.D. Tex. April 28, 2015); Young v. Anderson, et al., Civil No. H-15-712 (S.D. Tex. March 19, 2015). Thus, Young has at least three "strikes" against him for filing meritless actions prior to filing the present action.

The allegations made by Young concern an incident that occurred more than a month ago. Young does not allege facts showing that he is currently under imminent danger of serious physical injury for purposes of § 1915(g). Because he does not fit within the exception to the three-strikes rule, Young is not eligible to proceed without prepayment of the filing fee. See Young v. HCSO, Civil No. H-15-3492 (S.D. Tex. Dec. 8, 2015) (finding that Young is barred from proceeding as a pauper under the three-strikes rule). Accordingly, this case will be dismissed.

II. Conclusion and Order

Accordingly, the court **ORDERS** as follows:

1. The Application to Proceed In Forma Pauperis (Docket Entry No. 2) is **DENIED**.

2. This case will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).
3. Plaintiff may refile his Complaint if he pays the filing fee (\$400.00) within thirty days of the date of this Memorandum Opinion and Order.

The Clerk will provide copies of this Memorandum Opinion and Order to the parties and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, on this 29th day of April, 2016.

A handwritten signature in black ink, appearing to read 'S. Lake', is written over a horizontal line.

SIM LAKE
UNITED STATES DISTRICT JUDGE